

ARGUMENTS/REMARKS

Applicants would like to thank the examiner for the careful consideration given the present application. The application has been carefully reviewed in light of the Office action, and amended as necessary to more clearly and particularly describe and claim the subject matter which applicants regard as the invention.

Claims 1-29 remain in this application. The Examiner stated that claim 27 would be allowable if put into independent format, and that claim 28 is allowable. Claims 30-35 have been added without adding any new matter.

In a telephone interview with the Examiner, applicant's representative noted that the finality of the action was improper because the new rejections of claim 10 were not necessitated by the amendments to the claim, which were merely editorial in nature. The Examiner agreed that the finality of the action was improper, and she agreed to withdraw the finality and to provide an interview summary to that effect. Accordingly, the outstanding action is being treated as a non-final action as indicated by the Examiner.

Claims 1-26 were rejected under 35 U.S.C. §103(a) as being unpatentable over Gisby (U.S. 5,943,416) in view of Peters *et al.* (U.S. 5,893,098). For the following reasons, the rejection is respectfully traversed.

Claim 1, as amended, specifies a system including an Interactive Voice Recognition (IVR) unit connected to a CATI unit, wherein the CATI agent transfers the participant's communication connection to the IVR unit only if the participant agrees to the transfer for conducting an automated survey. However, the claim also specifies that if the participant does not agree to the transfer to an automated system, the CATI unit then supports the agent manually surveying the participant using substantially the same questions from the automated survey. Thus, the system can basically provide the same survey in either an automated way or a manual way, based on the response of the user. Thus, this feature allows the system to survey users that may not be comfortable with automated systems, but to also take advantage of a more economical automated survey process when the participant agrees to it.

The Examiner admits that the prior art references do not teach such a system, but argues that Gisby teaches that the caller can be routed to either an IVR or to a regular agent. Even if true, there is no teaching that after this routing, the Gisby system supports the regular agent conducting an interview. In fact, Gisby makes clear

that this “regular agent” is not a part of the survey agent population, and that this agent then disposes of the call without conducting a survey (see col. 6, lines 60-67). This is supported by the flow chart of Figure 2, which shows that if the client agrees to a survey, a “target agent” receives the call (steps 103 & 105), and only then is the client surveyed (step 113). In contrast, if the client does not agree to a survey, the “regular agent” receives the call (steps 103 & 107), but there is no subsequent block showing any survey. There is no teaching or suggestion in Gisby that a client who does not want to participate in an automated survey can be switched over to an agent for participating in a manual survey.

In fact, the reference further teaches away from the claimed feature, when it states that “callers who do not wish to participate [are routed] to agents based on non-survey routing” whereas “callers who do wish to participate are routed according to survey routing rules” (see col. 2, lines 54-62). There is no process disclosed to survey callers who *won’t* participate in an *automated* survey, but *will* participate in a *manual* survey.

Furthermore, although the reference teaches that calls might be “routed to *either* IVR 61 *or* a live agent” if the caller agrees to participate in a survey (see col. 5, lines 23-27; emphasis added), there is no teaching that the choice of such a routing is based on whether the caller agrees to an automated survey and if not, can instead participate in a manual survey where substantially the same questions are presented to the caller. Thus, although the reference teaches that surveys may be *either* manual *or* automated (see col. 7, lines 1-6), there is no teaching that the system supports such a choice is based on the user response of refusing an automated survey but participating, instead, with a manual one.

Peters fails to overcome these Gisby shortcomings. Accordingly, claim 1 is patentable over the references. All of the remaining independent claims, including new claim 30, also recite a system or method with limitations that provide for similar features, i.e., that the participant can refuse an automated survey but still get asked at least some of the same questions manually. Accordingly, the remaining claims are patentable over the reference for reasons similar to the above reasons.

Finally, the Examiner has not provided the proper motivation for rejecting claims for obviousness. The Examiner provides a list of supposed advantages of adding the teachings of Peter’s to Gisby, but she has not shown that such advantages were known in the art, or explained why one of skill would modify Gisby in this

manner. Instead, this appears to be a classic case of hindsight reasoning, as the Examiner is relying on the application itself to find her stated motivations for modifying Gisby to include the features of Peters. Accordingly, the rejection for obviousness is not supported by the Office action and thus the rejection is improper, and should be withdrawn.

In consideration of the foregoing analysis, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 16-0820, our Order No. 32669.

Respectfully submitted,
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